

AMENDED IN SENATE MAY 6, 2014
AMENDED IN SENATE APRIL 10, 2014

SENATE BILL

No. 1438

Introduced by Senator Pavley
(Coauthor: Senator Anderson)

February 21, 2014

An act to amend Section 1714.22 of the Civil Code, and to amend Sections 1797.197 and 11601 of the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

SB 1438, as amended, Pavley. Controlled substances: opioid antagonists.

(1) Existing law authorizes a licensed health care provider who is permitted by law to prescribe an opioid antagonist and is acting with reasonable care to prescribe and subsequently dispense or distribute an opioid antagonist for the treatment of an opioid overdose to a person at risk of an opioid-related overdose or a family member, friend, or other person in a position to assist a person at risk of an opioid-related overdose. Under existing law, licensed health care providers are authorized to issue standing orders for the distribution of an opioid antagonist to a person at risk of an opioid-related overdose or to a family member, friend, or other person in a position to assist the person at risk. Existing law also authorizes licensed health care providers to issue standing orders for the administration of an opioid antagonist by a family member, friend, or other person in a position to assist a person experiencing or suspected of experiencing an opioid overdose.

Existing law provides that a licensed health care provider who acts with reasonable care and issues a prescription for, or an order for the

administration of, an opioid antagonist to a person experiencing or suspected of experiencing an opioid overdose is not subject to professional review, liable in a civil action, or subject to criminal prosecution for issuing the prescription or order. Under existing law, a person who is not otherwise licensed to administer an opioid antagonist, but who meets other specified conditions, is not subject to professional review, liable in a civil action, or subject to criminal prosecution for administering an opioid antagonist.

This bill would clarify that peace officers are included among the persons authorized to receive and distribute opioid antagonists as described above.

(2) Existing law, the Emergency Medical Services System and the Prehospital Emergency Medical Care Personnel Act, establishes the Emergency Medical Services Authority (EMSA), which is responsible for the coordination and integration of all state agencies concerning emergency medical services. Under existing law, EMSA is required to establish training and standards, and promulgate regulations, for all prehospital emergency care personnel, as defined, regarding the characteristics and method of assessment and treatment of anaphylactic reactions and the use of epinephrine.

This bill would require EMSA to establish training and standards, and promulgate regulations, for all prehospital emergency care personnel, as defined, regarding the use and administration of naloxone hydrochloride and other opioid antagonists. ~~The Notwithstanding that requirement, the~~ bill would also authorize a local EMS agency to establish training and standards, and promulgate regulations, in lieu of those developed and promulgated by EMSA, ~~for the purpose of considering local need,~~ for all prehospital emergency care personnel under the jurisdiction of that local EMS agency regarding the use and administration of naloxone hydrochloride and other opioid antagonists. The bill would specify that both of those types of trainings satisfy the requirements described above allowing for immunity from criminal and civil liability for administering an opioid ~~antagonist. antagonist, and~~ *require certain best practices to apply to those trainings, standards, and regulations.*

(3) Existing law, the Uniform Controlled Substances Act, requires the Attorney General to encourage research on the misuse and abuse of controlled substances, and, in connection with that research, and in furtherance of the enforcement of the act, authorizes the Attorney General to undertake specific acts, including developing new or

improved approaches, techniques, systems, equipment, and devices to strengthen the enforcement of the act.

This bill would additionally permit the Attorney General, in connection with that research, and in furtherance of the enforcement of the act, to authorize hospitals and trauma centers to share information with local law enforcement agencies and local emergency medical services agencies about controlled substances. The bill would limit the data that may be provided by hospitals and trauma centers to the number of overdoses and the substances suspected as the primary cause of the overdoses. The bill would require that the information shared be shared in a manner that ensures complete patient confidentiality.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1714.22 of the Civil Code is amended
2 to read:
3 1714.22. (a) For purposes of this section, the following
4 definitions shall apply:
5 (1) “Opioid antagonist” means naloxone hydrochloride that is
6 approved by the federal Food and Drug Administration for the
7 treatment of an opioid overdose.
8 (2) “Opioid overdose prevention and treatment training
9 program” means any program operated by a local health
10 jurisdiction or that is registered by a local health jurisdiction to
11 train individuals to prevent, recognize, and respond to an opiate
12 overdose, and that provides, at a minimum, training in all of the
13 following:
14 (A) The causes of an opiate overdose.
15 (B) Mouth to mouth resuscitation.
16 (C) How to contact appropriate emergency medical services.
17 (D) How to administer an opioid antagonist.
18 (b) A licensed health care provider who is authorized by law to
19 prescribe an opioid antagonist may, if acting with reasonable care,
20 prescribe and subsequently dispense or distribute an opioid
21 antagonist to a person at risk of an opioid-related overdose or to
22 a family member, friend, peace officer, or other person in a position
23 to assist a person at risk of an opioid-related overdose.

1 (c) (1) A licensed health care provider who is authorized by
2 law to prescribe an opioid antagonist may issue standing orders
3 for the distribution of an opioid antagonist to a person at risk of
4 an opioid-related overdose or to a family member, friend, peace
5 officer, or other person in a position to assist a person at risk of an
6 opioid-related overdose.

7 (2) A licensed health care provider who is authorized by law to
8 prescribe an opioid antagonist may issue standing orders for the
9 administration of an opioid antagonist to a person at risk of an
10 opioid-related overdose by a family member, friend, peace officer,
11 or other person in a position to assist a person experiencing or
12 reasonably suspected of experiencing an opioid overdose.

13 (d) (1) A person who is prescribed or possesses an opioid
14 antagonist pursuant to a standing order shall receive the training
15 provided by an opioid overdose prevention and treatment training
16 program.

17 (2) A person who is prescribed an opioid antagonist directly
18 from a licensed prescriber shall not be required to receive training
19 from an opioid prevention and treatment training program.

20 (e) A licensed health care provider who acts with reasonable
21 care shall not be subject to professional review, be liable in a civil
22 action, or be subject to criminal prosecution for issuing a
23 prescription or order pursuant to subdivision (b) or (c).

24 (f) Notwithstanding any other law, a person who possesses or
25 distributes an opioid antagonist pursuant to a prescription or
26 standing order shall not be subject to professional review, be liable
27 in a civil action, or be subject to criminal prosecution for this
28 possession or distribution. Notwithstanding any other law, a person
29 not otherwise licensed to administer an opioid antagonist, but
30 trained as required under paragraph (1) of subdivision (d), who
31 acts with reasonable care in administering an opioid antagonist,
32 in good faith and not for compensation, to a person who is
33 experiencing or is suspected of experiencing an overdose shall not
34 be subject to professional review, be liable in a civil action, or be
35 subject to criminal prosecution for this administration.

36 SEC. 2. Section 1797.197 of the Health and Safety Code is
37 amended to read:

38 1797.197. (a) The authority shall establish training and
39 standards for all prehospital emergency care personnel, as defined
40 in paragraph (2) of subdivision (a) of Section 1797.189, regarding

1 the characteristics and method of assessment and treatment of
2 anaphylactic reactions and the use of epinephrine. The authority
3 shall promulgate regulations regarding these matters for use by all
4 prehospital emergency care personnel.

5 (b) (1) The authority shall establish training and standards for
6 all prehospital emergency care personnel, as defined in paragraph
7 (2) of subdivision (a) of Section 1797.189, regarding the use and
8 administration of naloxone hydrochloride and other opioid
9 antagonists. The authority shall promulgate regulations regarding
10 these matters for use by all prehospital emergency care personnel.
11 The authority may designate existing training and standards for
12 the use and administration of naloxone hydrochloride or another
13 opioid antagonist to satisfy the requirements of this section.

14 (2) ~~Notwithstanding paragraph (1),~~ a local EMS agency may
15 develop its own training and standards, and may promulgate
16 regulations, in lieu of the training and standards and regulations
17 developed by the authority pursuant to paragraph (1), *for the*
18 *purpose of considering local need,* regarding the use and
19 administration of naloxone hydrochloride and other opioid
20 antagonists by prehospital emergency care personnel under the
21 jurisdiction of that local EMS agency.

22 (3) *The training, standards, and regulations described in*
23 *paragraphs (1) and (2) shall be in line with best practices in the*
24 *Substance Abuse and Mental Health Services Administration's*
25 *Opioid Overdose Prevention Toolkit.*

26 ~~(3)~~

27 (4) The training described in paragraphs (1) and (2) shall satisfy
28 the requirements of paragraph (1) of subdivision (d) of Section
29 1714.22 of the Civil Code.

30 SEC. 3. Section 11601 of the Health and Safety Code is
31 amended to read:

32 11601. The Attorney General shall encourage research on
33 misuse and abuse of controlled substances. In connection with the
34 research, and in furtherance of the enforcement of this division,
35 he or she may do all of the following:

36 (a) Develop new or improved approaches, techniques, systems,
37 equipment, and devices to strengthen the enforcement of this
38 division.

39 (b) Enter into contracts with public agencies, institutions of
40 higher education, and private organizations or individuals for the

1 purpose of conducting demonstrations or special projects that bear
2 directly on misuse and abuse of controlled substances.

3 (c) (1) Authorize hospitals and trauma centers to share
4 information with local law enforcement agencies and local
5 emergency medical services agencies about controlled substance
6 overdose trends.

7 (2) The information provided by hospitals and trauma centers
8 pursuant to this subdivision shall include only the number of
9 overdoses and the substances suspected as the primary cause of
10 the overdoses. Any information shared pursuant to this subdivision
11 shall be shared in a manner that ensures complete patient
12 confidentiality.